



## II. DISCUSSION

This Court is limited in its authority to alter a criminal sentence. While this Court believes strongly that a person convicted of an offense should receive full credit for time served, calculation of credit for time spent in prior federal custody is governed by 18 U.S.C. § 3585(b). In United States v. Wilson, 503 U.S. 329 (1992), the Supreme Court held that the Attorney General—through the Bureau of Prisons (“BOP”)—is authorized in the first instance to compute credit under § 3585(b). Id. at 334–35. The Court in Wilson made it clear that “[Section] 3585(b) does not authorize a district court to compute the [presentence detention] credit at sentencing.” Id. at 334.

A defendant must first exhaust his administrative remedies under § 3585(b) through the BOP, and only then may he file a § 2241 petition in the district where the defendant is confined. Once administrative remedies are exhausted as elaborated in 28 C.F.R. §§ 542.10–542.16, a dissatisfied defendant may then seek judicial review of any jail-time credit determination, Wilson, 503 U.S. at 335, by filing a *habeas petition* under 28 U.S.C. § 2241 in the district where the defendant is confined. Thomas v. Whalen, 962 F.2d 358 (4th Cir. 1992).

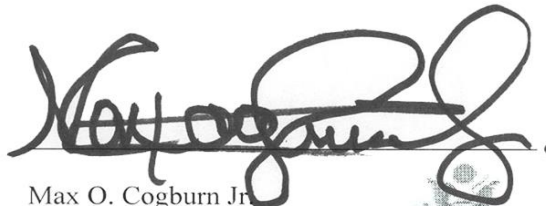
Because Defendant has not exhausted his administrative remedies, his request exceeds the scope of this Court’s authority to amend a final judgment. Defendant must first exhaust his administrative remedies, and then file a § 2241 petition to receive judicial review. Therefore, this Court must dismiss Defendant’s motion. Because Defendant’s Motion to Amend a Criminal Judgment is dismissed, his request for reappointment of counsel is rendered moot.

Finally, this Court has deliberated whether to consider this to be a § 2255 petition. Here, nothing in the record indicates that Defendant has sought such administrative review, and, even if he had, a § 2255 motion would not be the proper vehicle to address this issue.

**ORDER**

**IT IS, THEREFORE, ORDERED** that the Government's Motion to Dismiss Defendant's Motion to Amend a Criminal Judgment (Doc. No. 31) is **GRANTED**. Defendant's Motion to Amend a Criminal Judgment is **DISMISSED** without prejudice.

Signed: November 28, 2022



Max O. Cogburn Jr.  
United States District Judge